



General Assembly

Substitute Bill No. 5408

February Session, 2014



AN ACT CONCERNING TREE TRIMMING.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Section 16-234 of the 2014 supplement to the general
2 statutes is repealed and the following is substituted in lieu thereof
3 (*Effective from passage*):

4 (a) As used in this section:

5 (1) "Utility" means a telephone, telecommunications, electric or
6 electric distribution company, each as defined in section 16-1;

7 (2) "Utility protection zone" means any rectangular area extending
8 horizontally for a distance of eight feet from any outermost electrical
9 conductor or wire installed from pole to pole and vertically from the
10 ground to the sky;

11 (3) "Hazardous tree" means any tree or part of a tree that is (A)
12 dead, (B) extensively decayed, or (C) structurally weak, which, if it
13 falls, would endanger utility infrastructure, facilities or equipment;

14 (4) "Vegetation management" means pruning or removal of trees,
15 shrubs or other vegetation that pose a risk to the reliability of the
16 utility infrastructure, and the retention of trees and shrubs that are
17 compatible with the utility infrastructure. Until such time as the

18 Department of Energy and Environmental Protection issues standards
19 for identifying such compatible trees and shrubs, the standards and
20 identification of such compatible trees and shrubs shall be as set forth
21 in the 2012 final report of the State Vegetation Management Task
22 Force; and

23 (5) "Pruning" means the selective removal of plant parts to meet
24 specific goals and objectives, when performed according to current
25 professional tree care standards.

26 (b) A utility may perform vegetation management within the utility
27 protection zone to secure the reliability of utility services by protecting
28 overhead wires, poles, conductors or other utility infrastructure from
29 trees and shrubs, parts of trees and shrubs or other vegetation located
30 within the utility protection zone.

31 (c) (1) In conducting vegetation management, no utility shall prune
32 or remove any tree or shrub within the utility protection zone, or on or
33 overhanging any highway or public ground, without delivering notice
34 to the abutting property owner. Such notice shall include the option for
35 the abutting property owner to, in writing, consent to such proposed
36 pruning or removal, object to such proposed pruning or removal or
37 modify such proposed pruning or removal. If the tree is on private
38 property, such notice shall include a statement that if such owner
39 objects to the proposed pruning or removal, and such tree falls on any
40 utility infrastructure, the owner shall not be billed by the utility for any
41 resulting damage. Notice shall be considered delivered when it is (A)
42 mailed to the abutting property owner via first class mail, (B)
43 delivered, in writing, at the location of the abutting property, or (C)
44 simultaneously conveyed verbally and provided in writing to the
45 abutting property owner. A utility shall deliver such notice to the
46 abutting property owner if (i) pursuant to subparagraph (A) or (B) of
47 this subdivision, at least fifteen business days before the starting date
48 of any such pruning or removal, and (ii) pursuant to subparagraph (C)
49 of this subdivision, at any time before any such pruning or removal,
50 provided no utility may start such pruning or removal unless (I) if on

51 state property, the objection period pursuant to subdivision (2) of this
52 subsection has been met, or (II) if on state property or private property,
53 such property owner affirmatively waives, in writing, the right to
54 object. If requested by an owner of private property, the utility or the
55 Commissioner of Transportation, as appropriate, shall provide such
56 owner with information regarding whether a tree or shrub to be
57 pruned or removed is in the public right-of-way or whether such tree
58 or shrub is on such owner's private property.

59 (2) The notice shall indicate that (A) objection to pruning or removal
60 shall be filed in writing with the utility and either the tree warden of
61 the municipality or the Commissioner of Transportation, as
62 appropriate, not later than ten business days after delivery of the
63 notice, and (B) the objection may include a request for consultation
64 with the tree warden or the Commissioner of Transportation, as
65 appropriate.

66 (3) If no objection is filed by the abutting property owner in
67 accordance with subdivision (2) of this subsection for pruning or
68 removal of trees or shrubs on such owner's state property, the utility
69 may prune or remove [the] such trees or shrubs for which notice of
70 pruning or removal has been delivered.

71 (4) If the abutting property owner files an objection pursuant to
72 subdivision (2) of this subsection or if the utility does not accept the
73 modification to the original notice, as described in subdivision (1) of
74 this subsection, the tree warden of the municipality or the
75 Commissioner of Transportation, as appropriate, shall issue a written
76 decision as to the disposition of the tree or shrub not later than ten
77 business days after the filing date of such objection. This decision shall
78 not be issued before a consultation with the abutting property owner if
79 such a consultation has been requested. The abutting property owner
80 or the utility may appeal the tree warden's decision to the Public
81 Utilities Regulatory Authority within ten business days after the tree
82 warden's decision. The authority shall hold a hearing within sixty
83 business days of receipt of the abutting property owner's or utility's

84 written appeal of the tree warden's decision and shall provide notice of
85 such hearing to the abutting property owner, the tree warden and the
86 utility. The authority may authorize the pruning or removal of any tree
87 or shrub whose pruning or removal has been at issue in the hearing if
88 it finds that public convenience and necessity require such action. The
89 burden of proving that public convenience and necessity require such
90 action shall be on the utility.

91 (5) When an objection has been filed pursuant to subdivision (2) of
92 this subsection, no tree or shrub subject to the objection shall be
93 pruned or removed until a final decision has been reached pursuant to
94 subdivision (4) of this subsection.

95 (d) Each utility shall operate an electronic mail account to receive
96 inquiries and complaints pursuant to subsections (a) to (g), inclusive,
97 of this section.

98 (e) In conducting vegetation management, no utility shall remove
99 any tree within the utility protection zone on private property without
100 grinding the stump of such tree and planting a replacement tree on
101 such property, as directed by the owner of the property. The authority
102 shall allow, in a general rate case, a utility to recover the reasonable
103 costs incurred by such utility pursuant to this subsection.

104 ~~[(d)]~~ (f) No utility shall be required to provide notice pursuant to
105 subsection (c) of this section if the tree warden of the municipality or
106 the Commissioner of Transportation, as appropriate, authorizes, in
107 writing, pruning or removal by the utility of a hazardous tree within
108 the utility protection zone or on or overhanging any public highway or
109 public ground. Nothing in this subsection shall be construed to require
110 a utility to prune or remove a tree.

111 ~~[(e)]~~ (g) No utility shall be required to obtain a permit pursuant to
112 subsection (f) of section 23-65 or provide notice under subsection (c) of
113 this section to prune or remove a tree, as necessary, if any part of a tree
114 is in direct contact with an energized electrical conductor or has visible

115 signs of burning. Nothing in this subsection shall be construed to
116 require a utility to prune or remove a tree.

117 [(f)] (h) No utility shall exercise any powers which may have been
118 conferred upon it to change the location of, or to erect or place, wires,
119 conductors, fixtures, structures or apparatus of any kind over, on or
120 under any highway or public ground, without the consent of the
121 adjoining proprietors or, if such company is unable to obtain such
122 consent, without the approval of the Public Utilities Regulatory
123 Authority, which shall be given only after a hearing upon notice to
124 such proprietors. The authority may, if it finds that public convenience
125 and necessity require, authorize the changing of the location of, or the
126 erection or placing of, such wires, conductors, fixtures, structures or
127 apparatus over, on or under such highway or public ground.

This act shall take effect as follows and shall amend the following sections:		
Section 1	from passage	16-234

ET *Joint Favorable Subst.*